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09/804,003	03/12/2001	Gideon Martin Reinier Weishut	NL 000147	8863

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EXAMINER

YIMAM, HARUN M

ART UNIT	PAPER NUMBER
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2623

MAIL DATE	DELIVERY MODE
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09/10/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/804,003

Applicant(s)

WEISHUT ET AL.

Examiner

Harun M. Yimam

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. In view of the Appeal Brief filed on 06/04/2007, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:


ANDREW Y. KOENIG
PRIMARY PATENT EXAMINER

Acting SPE
to 2623
Claim Objections

2. Claims 2 and 8 are objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

"the average" in line 2 of claims 2 and 8 was never disclosed in claims 1 or 7.

Therefore, Examiner suggests that said phrase be rewritten as "an average" as stated in similar claim 15.

Appropriate correction is required.

Response to Arguments

3. Applicant's arguments filed 06/04/2007, that neither Sciammarella nor Ali teaches or suggests "computing a rating of a category of the first level as a function of ratings of subordinate categories of the second level" have been fully considered and are persuasive. Therefore, the rejection has been withdrawn.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 3, 6, 7, 9, 12 –14 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sciammarella (US 6,608,633) in view of Wehmeyer (US 5,867,226).

Considering claim 1, Sciammarella discloses a method of rating database objects, television programs, comprising:

categorizing the objects into a plurality of categories (programs are organized and displayed within the GUI according to categories [col. 5, lines 8-13]);

rating at least one of the said categories based on user preferences (the measuring value used to compute the relative importance of various categories—frequency of use is specific to a particular viewer – user preference. Frequency of use is a measuring value to rate program categories. col. 4, lines 27-57 and col. 5, lines 5-20));

arranging the categories in accordance with a multi-level category scheme with a first level of categories and a second level of categories subordinate to a respective category of the first level (the categories can be further sub-divided into sub-categories, which can also be ranked according to the aforementioned measuring value [col. 6, lines 53-65]).

Sciammarella further discloses that frequency of use is monitored for the different categories (see figures 2 and 3, column 3, line 65 – column 4, line 56 and column 5, line 42 – column 6, line 42). Sciammarella also discloses that frequency of use is monitored for the different sub-categories (column 6, line 43 – column 7, line 22). Having said that Sciammarella goes on to say that the frequency of use monitoring system is also applicable to the display of subcategories of one or more of the categories (column 3, lines 17 – 18). It is clear that baseball is not a subcategory of the

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Movies category and that the most watched Sports subcategories can be displayed as a physically larger subcategory than the other Sports subcategories as shown in figure 8.

However, Sciammarella fails to explicitly disclose computing a rating of a category of the first level as a function of ratings of subordinate categories of the second level.

In analogous art, Wehmeyer discloses computing a rating of a category of the first level as a function of ratings of subordinate categories of the second level (see figure 2 and column 2, lines 33-47. The rating of the MOVIE category is computed as a function of ratings of subordinate categories: COMEDY and DRAMA. Each time a viewer watches a movie, said movie is issued 1 count. The MOVIE category has 7 counts by summing up the 3 COMEDY and 4 DRAMA movies the viewer watched).

It would have been obvious to one of ordinary skill in the art to compute a rating of a category of the first level as a function of ratings of subordinate categories of the second level, as taught by Wehmeyer, for the benefit of distinguishing between different categories a viewer prefers with respect to their corresponding subcategories.

With regards to claims 3 and 9, they are met by the combination of Sciammarella and Wehmeyer. In particular, Sciammarella discloses that the method further comprises a step of visually representing a rating by means of a color (column 1, lines 55-67).

Regarding claim 6, it is met by the combination of Sciammarella and Wehmeyer. In particular, Sciammarella discloses that the objects are programs in an electronic program guide (EPG) database, and the categories of the first and second level are genres and sub-genres of said programs, respectively (the EPG data is sent in the data stream from the head end—col. 7, line 62 – col. 8, line 4. The GUI discussed throughout the reference makes use of the EPG data (including genre and sub-genre of each program) that is stored in data buffer 11).

Considering claim 7, see the above rejection of claim 1.

With regards to claim 12, see the above rejection to claim 6.

Regarding claim 13, it is met by the combination of Sciammarella and Wehmeyer. In particular, Sciammarella discloses a computer program product for performing, when executed on a programmable computing device, the steps of the method as defined in claim 1. The fact that a computer program product can execute the steps of claim 1 is met in column 5, lines 21-25, wherein a computer program for accomplishing the aforementioned steps is disclosed.

Considering claim 14, see the above rejection to claim 1.

Regarding claim 19, it is met by the combination of Sciammarella and Wehmeyer. In particular, Sciammarella discloses a memory adapted to store user profile information (EEPROM 38, for storing user settings and preferences—col. 8, lines 40-43).

6. Claims 2 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sciammarella (US 6,608,633) in view of Wehmeyer (US 5,867,226), as applied to claim 1 above, and further in view of Hejna, Jr (US 7,043,433).

Considering claims 2 and 8, Sciammarella and Wehmeyer disclose computing a rating of a category of the first level as a function of ratings of subordinate categories of the second level (Wehmeyer—see figure 2 and column 2, lines 33-47).

Sciammarella and Wehmeyer fail to disclose that the rating of the category of the first level is computed as an average of the ratings of subordinate categories of the second level.

In analogous art, Hejna discloses computing an average of the ratings of subordinate categories of a second level to get the value of the rating of the category of the first level (column 47, line 54 – column 48, line 29).

It would have been obvious to one of ordinary skill in the art to compute an average of the ratings of subordinate categories of a second level to get the value of the

rating of the category of the first level, as taught by Hejna, for the benefit of representing the probability that an audience member has an affinity in a more general subject based on the computed average of the subcategories (column 48, lines 20-29).

7. Claims 4, 5, 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sciammarella (US 6,608,633) in view of Wehmeyer (US 5,867,226), as applied to claim 1 above, and further in view of Lemmons (US 6,481,011).

Considering claim 4, Sciammarella and Wehmeyer disclose that the method further comprises a step of visually representing a rating by means of a color (Sciammarella—column 1, lines 55-67).

Sciammarella and Wehmeyer fail to disclose that a plurality of ratings is represented by means of a single color, a parameter of said color corresponding to a respective one of said plurality of ratings.

In analogous art, Lemmons discloses the ability for the user to assign a color to a rating in order to fit personal preferences (col. 6, lines 13-21).

It would have been obvious to one of ordinary skill in the art to incorporate the use of colors into the rating system, as taught by Lemmons, for the benefit of highlighting programs and genres that a user likes more accurately (column 1, lines 56-59 and column 5, lines 14-17).

As to claim 5, it is met by the combination of Sciammarella, Wehmeyer and Lemmons. In particular, Lemmons discloses a way to distinguish between different colors and ratings by varying intensity of color through the use of backgrounds and patterns (column 7, lines 49-53).

Regarding claim 10, see the above rejection of claim 4.

Considering claim 11, see the above rejection of claim 5.

8. Claims 15 – 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sciammarella (US 6,608,633) in view of Wehmeyer (US 5,867,226), as applied to claim 1 above, and further in view of Hejna, Jr (US 7,043,433).

Considering claim 15, Sciammarella and Wehmeyer disclose computing a rating of a category of the first level as a function of ratings of subordinate categories of the second level (Wehmeyer—see figure 2 and column 2, lines 33-47).

Sciammarella and Wehmeyer fail to disclose that the rating of the category of the first level is computed as an average of the ratings of subordinate categories of the second level.

In analogous art, Hejna discloses computing an average of the ratings of subordinate categories of a second level to get the value of the rating of the category of the first level (column 47, line 54 – column 48, line 29).

It would have been obvious to one of ordinary skill in the art to compute an average of the ratings of subordinate categories of a second level to get the value of the rating of the category of the first level, as taught by Hejna, for the benefit of representing the probability that an audience member has an affinity in a more general subject based on the computed average of the subcategories (column 48, lines 20-29).

With regards to claim 16, it is met by the combination of Sciammarella, Wehmeyer and Hejna. In particular, Sciammarella discloses that the method further comprises a step of visually representing a rating by means of a color (column 1, lines 55-67).

With regards claim 17, it is met by the combination of Sciammarella, Wehmeyer and Hejna. In particular, Sciammarella discloses that the first and the second levels of categories are displayed on the display screen (see figures 2 and 3 wherein All Categories are displayed and see figures 6-8 wherein the sub-categories are displayed—column 3, lines 17-18 and column 4, lines 27-56).

Considering claim 18, it is met by the combination of Sciammarella, Wehmeyer and Hejna. In particular, Sciammarella discloses that the display screen is adapted to display a connection indicator, which connects a category of one of the first level of categories to one of the second level of categories (see figures 6-8 and column 3, lines 17-18 and column 4, lines 27-56).

9. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sciammarella (US 6,608,633) and Wehmeyer (US 5,867,226), as applied to claim 14 above, in view of Hejna, Jr (US 7,043,433) and further in view of Ali (US 2002/0199194).

Considering claim 20, Sciammarella, Wehmeyer and Hejna disclose that the method further comprises a step of visually representing a rating by means of a color (Sciammarella—column 1, lines 55-67). Sciammarella further discloses different first categories (Sports, for example) as well as second categories (baseball, boxing, basketball, etc).

Sciammarella, Wehmeyer and Hejna fail to disclose an electronic program guide (EPG) module adapted to display programs on a screen, wherein the ratings of the plurality of second categories are included in the displayed programs.

In analogous art, Ali discloses an electronic program guide (EPG) module adapted to display programs on a screen, wherein the ratings of the plurality of second categories (news for a specific time and channel, a particular show, etc) are included in the displayed programs (Figure 2 shows a list of suggested programs accompanied by their rating icons [paragraph 31]). These 'thumbs' indicate favorability ratings based on category ratings, actor ratings, or other such predicted ratings.

It would have been obvious to one of ordinary skill in the art to incorporate second category ratings along with the displayed programs, as taught by Lemmons, for the benefit of highlighting programs and genres that a user likes more accurately (column 1, lines 56-59 and column 5, lines 14-17).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harun M. Yimam whose telephone number is 571-272-7260. The examiner can normally be reached on M-F 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HMY


ANDREW Y. KOENIG
PRIMARY PATENT EXAMINER